



General Assembly

**Amendment**

February Session, 2010

LCO No. 3764

**\*SB0024803764SD0\***

Offered by:

SEN. PRAGUE, 19<sup>th</sup> Dist.

SEN. DEFRONZO, 6<sup>th</sup> Dist.

To: Subst. Senate Bill No. 248

File No. 246

Cal. No. 189

**"AN ACT CONCERNING ADVERSE EVENTS AT HOSPITALS AND  
OUTPATIENT SURGICAL FACILITIES."**

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Section 4-104 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective October 1, 2010*):

5 (a) Each private hospital, public hospital society or corporation  
6 receiving state aid shall, upon the written demand of any patient who  
7 has been treated in such hospital and after his discharge therefrom,  
8 permit such patient, [or his physician or authorized attorney] the  
9 patient's physician, the patient's attorney or any other person  
10 designated as the patient's health care representative to examine the  
11 hospital record, including the history, bedside notes, charts, pictures  
12 and plates kept in connection with the treatment of such patient, and  
13 permit copies of such history, bedside notes and charts to be made by  
14 such patient, his physician or authorized attorney. Upon receipt of a

15 written demand for examination of a hospital record, a private  
16 hospital, public hospital society or corporation receiving state aid shall  
17 permit such examination to occur not later than thirty days after the  
18 date of receipt of the written demand for examination.

19 (b) If any such hospital, society or corporation is served with a  
20 subpoena issued by competent authority directing the production of  
21 such hospital record in connection with any proceedings in any court,  
22 the hospital, society or corporation upon which such subpoena is  
23 served may, except where such record pertains to a mentally ill  
24 patient, deliver such record or at its option a copy thereof to the clerk  
25 of such court. Such clerk shall give a receipt for the same, shall be  
26 responsible for the safekeeping thereof, shall not permit the same to be  
27 removed from the premises of the court and shall notify the hospital to  
28 call for the same when it is no longer needed for use in court. Any such  
29 record or copy so delivered to such clerk shall be sealed in an envelope  
30 which shall indicate the name of the patient, the name of the attorney  
31 subpoenaing the same and the title of the case referred to in the  
32 subpoena. No such record or copy shall be open to inspection by any  
33 person except upon the order of a judge of the court concerned, and  
34 any such record or copy shall at all times be subject to the order of  
35 such judge. Any and all parts of any such record or copy, if not  
36 otherwise inadmissible, shall be admitted in evidence without any  
37 preliminary testimony, if there is attached thereto the certification in  
38 affidavit form of the person in charge of the record room of the  
39 hospital or his authorized assistant indicating that such record or copy  
40 is the original record or a copy thereof, made in the regular course of  
41 the business of the hospital, and that it was the regular course of such  
42 business to make such record at the time of the transactions,  
43 occurrences or events recorded therein or within a reasonable time  
44 thereafter. A subpoena directing production of such hospital record  
45 shall be served not less than twenty-four hours before the time for  
46 production, provided such subpoena shall be valid if served less than  
47 twenty-four hours before the time of production if written notice of  
48 intent to serve such subpoena has been delivered to the person in

49 charge of the record room of such hospital not less than twenty-four  
50 hours nor more than two weeks before such time for production.

51 Sec. 502. Section 4-105 of the general statutes is repealed and the  
52 following is substituted in lieu thereof (*Effective October 1, 2010*):

53 (a) If any patient who has received treatment in [any such hospital]  
54 a private hospital, public hospital society or corporation receiving state  
55 aid, after his discharge [from such hospital] therefrom, has made  
56 written [application] demand to such hospital, hospital society or  
57 corporation for permission to examine his record as such patient in  
58 such hospital and has been refused permission to examine or copy the  
59 same, such patient, [may] patient's physician, patient's attorney or any  
60 other person designated as the patient's health care representative  
61 may: (1) File a written complaint with the Department of Public Health  
62 setting forth the facts that are alleged to constitute a violation of  
63 section 4-104, as amended by this act; or (2) file a written motion  
64 addressed to any judge of the Superior Court, praying for a disclosure  
65 of the contents of such hospital record relating to such patient and for  
66 a production of the same before such judge. [Upon such application  
67 being filed,]

68 (b) In the event that a patient or a person designated to act on behalf  
69 of a patient in accordance with section 4-104, as amended by this act,  
70 files a complaint with the Department of Public Health, pursuant to  
71 subsection (a) of this section, the commissioner shall conduct a  
72 hearing, in accordance with the provisions of chapter 54, on the  
73 allegations contained in the complaint. If after such hearing the  
74 commissioner finds that there has been a substantial failure by such  
75 hospital, hospital society or corporation to comply with the  
76 requirements of section 4-104, as amended by this act, the  
77 commissioner: (1) Shall order that the hospital record be disclosed to  
78 the complainant not later than five calendar days following the date of  
79 the decision; and (2) may impose a civil penalty of not more than five  
80 thousand dollars against such hospital, hospital society or corporation.  
81 In the event that the commissioner finds that any substantial failure to

82 comply with the requirements of section 4-104, as amended by this act,  
83 relates to a hospital record that contains information concerning an  
84 adverse event, as defined in section 19a-127n, as amended by this act,  
85 the commissioner may impose a civil penalty of not more than ten  
86 thousand dollars against such hospital, hospital society or corporation.  
87 In the case of a continuing violation, each day of the continuance of the  
88 violation shall be deemed a separate and distinct offense.

89 (c) In the event that a patient or a person designated to act on behalf  
90 of a patient in accordance with section 4-104, as amended by this act,  
91 files a written motion with the Superior Court, the judge to whom the  
92 same has been presented shall cause reasonable notice to be given to  
93 such hospital, hospital society or corporation of the time when and  
94 place where such petition will be heard, and such judge, after due  
95 hearing and notice, may order the officer authorized to act in the  
96 capacity of manager of such hospital to produce before him and  
97 deliver into his custody the history, bedside notes, charts, pictures and  
98 plates of such patient for the purpose of being examined or copied by  
99 such patient, his physician or authorized attorney. Each officer of any  
100 hospital having custody of the history, bedside notes, charts, pictures  
101 or plates of any patient therein, who refuses to produce such record  
102 before such judge, pursuant to the provisions of this section, shall be  
103 fined not more than [one hundred] ten thousand dollars or imprisoned  
104 not more than six months or both.

105 Sec. 503. Subdivision (3) of section 52-146f of the general statutes is  
106 repealed and the following is substituted in lieu thereof (*Effective*  
107 *October 1, 2010*):

108 (3) Except as provided in section 17b-225, the name, address and  
109 fees for psychiatric services to a patient may be disclosed to  
110 individuals or agencies involved in the collection of fees for such  
111 services. In cases where a dispute arises over the fees or claims or  
112 where additional information is needed to substantiate the fee or  
113 claim, the disclosure of further information shall be limited to the  
114 following: (A) That the person was in fact a patient; (B) the diagnosis;

115 (C) the dates and duration of treatment; and (D) a general description  
116 of the treatment, which shall include evidence that a treatment plan  
117 exists and has been carried out and evidence to substantiate the  
118 necessity for admission and length of stay in a health care institution  
119 or facility. If further information is required, the party seeking the  
120 information shall proceed in the same manner provided for hospital  
121 patients in subdivision (2) of subsection (a) of section 4-105, as  
122 amended by this act."